

Sexual Harassment and Other Illegal or Prohibited Discrimination

Internal Policy Memorandum

Purpose

The _____ is committed to providing a safe and congenial work environment for its employees. The definition of work environment shall include, but not exclusively, anywhere that employees are performing work duties such as the office, any work site, or travel time to and from a work site. Sexual harassment or discrimination of an employee based on race, sex, national origin, age, color, religion or disability is forbidden. These types of behaviors are destructive in nature and cannot be tolerated by the _____.

Policy

The sexual or other illegal or discriminatory harassment of any employee of the _____ is prohibited by law and by the policy of the _____. Any form of sexual harassment or other unlawful harassment is strictly prohibited. Employees are expected to refrain from conduct that may be reasonably considered offensive to others. Offensive conduct may be written or oral. Offensive conduct includes, but is not limited to the use of profanity, sexual comments or images, racial slurs, gender-specific comments, or any comments that would reasonably offend someone on the basis of his or her age, race, religious belief, national origin or disability. All employees are expected to treat their co-workers with courtesy, respect and dignity. The _____ will investigate and take remedial action whenever there is reason to believe that sexual demands or harassment are present. The prohibitions of sexual harassing behavior apply to peer relationships, as well as to employment relationships of a superior/subordinate nature. Any employee, supervisor, or manager who is made aware of an alleged incident of sexual or other harassment shall bring the matter to proper resolution by taking action in accordance with the procedures in this policy. Retaliating or discriminating against an employee for complaining about sexual harassment or other illegal discrimination is prohibited. Violation of this policy will result in disciplinary action up to, and including dismissal.

Sexual Harassment Defined

Harassment on the basis of sex is a violation of Section 703 of Title VII of the Civil Rights Act of 1964.

The _____ recognizes that there is a difference between occasional compliments of a socially acceptable nature, and behavior that is not welcome, that is personally offensive, that lowers morale, and interferes with work effectiveness. Unwelcome sexual advances, requests for sexual favors, unwelcome sexual epithets, innuendoes, advances, references, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

- Submission to such conduct is either explicitly or implicitly a term or condition of an individual's employment;

- Submission to, or rejection of, such conduct by an individual is used as the basis for employment decisions affecting such individual;
- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Prohibited Activities

No employee shall use the authority of their position or the circumstances of the work place to sexually harass others to:

- Enhance or adversely affect any subordinate's employment status, terms, or conditions of employment;
- Grant, recommend, or refuse to take any personnel action;
- Take, or fail to take, a personnel action as a reprisal against an employee for rejecting or reporting sexual harassment; or,
- Unreasonably interfere with another individual's work performance or to create an intimidating, hostile, or offensive work environment (also see *Violence Policy*).

Following are examples of activities or behaviors which could be considered to constitute sexual harassment when deemed unwelcome to the recipient of the behavior and when also meeting one or more of the above criteria:

Verbal

- Calling a person a "hunk," "doll," "babe," or "honey"
- Turning work discussions to sexual topics
- Asking personal questions about social or sexual life
- Asking about sexual fantasies, preferences or history
- Making sexual comments about a person's clothing, body or looks
- Making kissing sounds, howling, smacking lips
- Telling lies or spreading rumors about a person's sex life

Nonverbal

- Blocking a person's path
- Restricting or hindering another person's movements
- Sexual and/or derogatory comments about men/women printed on coffee mugs, hats, clothing, etc.
- Making facial expressions, such as winking throwing kisses or licking lips
- Making sexual gestures with hands and/or body movements
- Letters, gifts and/or materials of a sexual nature
- Invading a person's body space; standing closer than appropriate or necessary for the work being done

Physical

- Massaging a person's neck, shoulders, etc.
- Touching a person's clothing, hair, or body
- Hugging, kissing, patting or stroking
- Touching or rubbing oneself sexually around or in view of another person
- Brushing up against a person
- Patting, goosing, caressing or fondling
- Tearing/pulling/yanking a person's clothing
- Exposing oneself

Implementation

This policy and procedure will be disseminated to all _____ employees, and all new employees must receive this within the first 30 days of employment.

Filing, Investigation and Resolution

Employees who believe they are being subjected to illegal or prohibited sexual harassment are encouraged to file complaints with the Civil Rights Manager or a supervisor, the highest ranking available manager, or the administrator. Employees, if they so desire, may file a claim of illegal sexual harassment directly with the Idaho Human Rights Commission and/or the Equal Employment Opportunity Commission (EEOC).

Applicants for employment may file discrimination complaints with the Civil Rights Manager, or the Idaho Human Rights Commission and/or the EEOC.

Any employee aware of or suspecting the occurrence of sexual harassment will be expected to report the matter through the most confidential and direct means possible to preserve morale and discipline in the work unit. The employee will provide a statement of known facts to:

- The Civil Rights Manager; **or**
- The Administrator; **or**
- The highest-ranking available manager

The employee will not discuss the matter with co-workers and persons not directly responsible for investigating the matter.

Confidentiality

Due to the sensitivity and confidentiality necessarily surrounding sexual harassment issues, employees who suspect harassment or who need information about coping with potential harassment, may contact the Civil Rights Manager, who will ensure that no person except those responsible for investigating and enforcing civil rights matters will have access to confidential communications. Upon a specific request by the employee, the Civil Rights Manager may provide the name of a contact of a different gender than the Manager.

Due to the damage that could result to the career and reputation of any supervisor falsely or in bad faith accused of sexual harassment, all investigations and hearings surrounding such matters will be designed, to the maximum extent possible, to protect the privacy of and minimize suspicion toward the accused, as well as the complainant.

Reporting and Investigation Procedure

When any supervisor, manager, or management authority is made aware of an alleged incident of sexual harassment, or when an allegation of sexual harassment is made of any employee, they will take immediate action to bring the matter to the attention of the Civil Rights Manager. The Civil Rights Manager will make the determination, upon a review of the facts, whether to institute a formal or informal investigation. When a formal investigation is indicated, the Civil Rights Manager will take immediate steps to investigate the matter by:

- Obtaining a statement from the complainant regarding the times, dates, places, and circumstances surrounding the allegations;
- Discussing the matter with the accused; informing the Supervisor who will take interim steps to prevent a recurrence of the problem until a permanent solution is obtained; and
- Completing the investigation and submitting a report to the Administrator. Such reports shall contain:
 1. A description of the allegations;
 2. A discussion of all information and witnesses recommended by the complainant and the accused; and
 3. Findings of fact with respect to the allegations.

Action and Resolution

Based on the information received, the Administrator will advise the supervisor to take immediate and appropriate corrective action. In determining whether conduct constitutes a violation of this policy, the Administrator or designated appointee will look at the record as a whole and at the totality of the circumstances, such as the nature of the alleged sexual harassment, and the context in which it occurred. The determination of the seriousness of a particular action will be made from the facts on a case-by-case basis.

If there appears to be no foundation to the allegation:

- No record will be made of the allegation in either the accused or accuser's personnel records; and
- A reiteration of the policy against sexual harassment may be appropriate.

If a foundation for the allegation exists, disciplinary action against the offending employee will follow. Disciplinary action will be commensurate with the scope and severity of the occurrence and may include, but is not limited to, warnings, reprimands, suspension, demotion, or dismissal.

Other Prohibited Discrimination

Complaints alleging other forms of discrimination based on race, color, sex, national origin, age, religion, disability or retaliation may be filed verbally or in writing directly with the _____ Civil Rights Manager, or the Administrator. Complaints are accepted within one year of the last alleged incident. The Civil Rights Manager or designee will be responsible for conducting a confidential investigation and making a recommendation to the Administrator for resolution of the complaint.

A Supervisor who receives a complaint alleging discrimination will immediately forward the complaint to the Civil Rights Manager or designee for investigation. In all cases, the complaint, the investigation, and the solution will be kept confidential to the maximum extent possible. Only those persons responsible for investigating and enforcing civil rights matters will have access to confidential information obtained under this procedure. An employee filing such a complaint should not discuss the matter with coworkers and persons not directly responsible for the investigation.

The Civil Rights Manager or designee will investigate the complaint by:

1. Obtaining information from the employee regarding the times, dates, places, and circumstances surrounding the allegation(s);
2. Discussing the matter with the accused;
3. Obtaining information from witnesses, if any; and
4. Reviewing and analyzing any pertinent data and information.

Upon completion of the investigation, the Civil Rights Manager or designee will prepare and submit a written report to the Administrator of the _____. The report will contain a description of the allegations(s); and a finding of fact with respect to the allegations.

The Civil Rights Manager or designee has fifteen (15) working days to complete the investigation and report to the Administrator. The Administrator will take appropriate corrective action.

An employee may also file a complaint with the Idaho Human Rights Commission regarding any illegal discrimination including disability. Such complaint must be filed within one (1) year from the date of the incident (or last alleged incident).